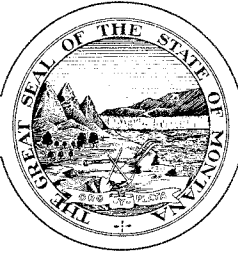


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*Secretary*  
SENATE *State Admin*  
Exhibit No. 6  
Date 3-29-2011  
Bill No. HB 483

Members of Senate State Administration Committee

March 28, 2011

Subject: HB 483

After Saturday's very good work and a handshake deal that afternoon on sponsor-endorsed amendments to HB 483, I learned this morning that Rep. Howard has declined to move forward as agreed. Therefore, I must communicate that this office remains in opposition to HB 483 as written.

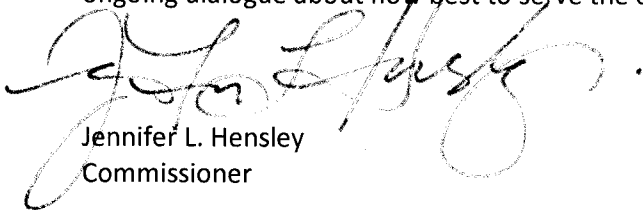
As I've previously stated, this office's concern with HB 483 lies with major consequences of sections *regardless* of the "church exemption" language:

1. Creation of an entirely separate administrative and reporting structure for a subset of a subset committee (ballot issue committee is currently a type of independent committee, which is currently a type of a political committee; under HB 483, they will be treated entirely differently)
  - a. Confusion to all parties
  - b. Redundant office procedures
  - c. Two different set of operating rules
2. Elimination of a huge percentage of information that the public has a right to, and also has had access to for generations.
  - a. \$500 is the new floor for reporting donations to ballot issues, vs \$35 that exists today.
  - b. Only name and state of residence for the \$500 donors is required, vs name, address, occupation and employer required today.
  - c. Page 11, Section 4 at line 15, deletes specific statutory language requiring disclosure of contributions received or expenditures made prior to the time an issue becomes a "ballot issue" as defined in §13-1-101, MCA, even if the issue subsequently fails to qualify for the ballot. This section was specifically placed into statute during the 2001 Legislative Session, through SB 185 sponsored by Sen. John Cobb and supported by Commissioner Vaughey, as there was disagreement about reporting requirements prior to the addition of the language. Arguably, the first sentence of §13-37-128(1), MCA, requires reporting of such contributions and expenditures. However, if the clarification language that was included by Sen. Cobb's SB 185 is removed, any group resisting disclosure could point to the legislature's action as an indication of its intent that disclosure of pre-qualification contributions and expenditures is not required if the issue subsequently fails to qualify for the ballot.

I received a note from Helena attorney Jon Motl, who has been intimately involved in the financial side of nine initiatives and who also testified in opposition to HB 483. Mr. Motl provided a real-life example of the consequence of HB 483 that may ring true with members of this committee:

*"In 1990 I-115 (the first tobacco tax) failed when 7 tobacco companies spent more to defeat I-115 than all 1990 candidates for public office spent combined. For the past 100 years with the exception of one election corporations have been able to spend and have spent money directly from the corporate treasury on initiative campaigns. Now, HB 483 determines that these corporations are not ballot committees because their major purpose (need to spend more than 25% of annual budget to be major purpose) is something other than support of a ballot issue -- it is sale of tobacco products. The ballot issue expenditures in Montana were a tiny fraction of these company's budgets -- therefore they are not ballot committees. Thus, these corporations can contribute/spend without being a ballot committee and they are not a political committee since HB 483 eliminates political committees for ballot issues and leaves only ballot committees. In turn, HB 483 says that reporting is only required for candidates, political committees or ballot issue committees. Because the tobacco companies are not a ballot committee, not a political committee and not a candidate there would appear to be no reporting requirement. If HB 483 were law in 1990 this literally means that in 1990 over 50% of the money spent in politics would not have been reported. Yet, HB 483 continues a definition of contribution as 'anything of value for the purpose of influencing the results of the election.' HB 483, however, no longer provides a mechanism for disclosing the public the amount of the contribution..."*

I reiterate my respectful request for a No vote on HB 483, unamended. As always, I look forward to the ongoing dialogue about how best to serve the citizens of our great state.



Jennifer L. Hensley  
Commissioner

cc: Rep. Howard, Anthony Johnstone, Tim Fox, Jon Motl